

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims replaces all prior versions, and listings, of claims in the application. Reexamination and reconsideration in light of the proposed amendments and the following remarks are respectfully requested.

Claim Objections

As per the agreement reached between the Examiner and the undersigned during a brief telephonic conference, the claims have been renumbered to obviate the misnumbering induced by the inadvertent omission of claim 7. Via this amendment, originally filed claims 8-14 are renumbered as claims 7-13.

Rejections under 35 USC 112

With this respect to the expression "storage facilities" it is submitted that this expression is generic to the library and the shared memory and is therefore such as to encompass at least both of the above mentioned storage facilities. Claim breadth is not synonymous with indefiniteness. In this instance, the expression "storage facilities" is broad and encompasses at least the library and the shared memory.

The missing nexus between "allowed work unit rate" and "at least one parameter" has been resolved via a simple amendment to the two independent claims. In originally filed claim 10, it is clear that the "allowed work unit rate" refers to the speed at which processing is carried out and that there is no indefiniteness involved with its usage.

The term "repeatedly" has been removed claims 2-3 and 11-12, and thus renders this rejection moot.

Rejections under 35 USC § 103

The rejection of the claims 1-6 and 8-14 (renumbered as claims 7-13) as being unpatentable over Freeman et al. in view of Chintalapati et al. is respectfully traversed.

In this rejection it is admitted that Freeman et al. fail to explicitly teach having an inter-process communication mechanism and turns to Chintalapati et al. to compensate for this shortcoming.

Oddly, the section of Chintalapati et al. that is cited as suggesting the transfer of an inter-process communication mechanism to Freeman et al., is a part of the first claim

of this patent. Nevertheless, the rejection goes on to assert that it would have been obvious at the time of invention to include "dynamically controlling resources based on parameters with inter-process communication to the existing system of Freeman et al. because it would increase the efficiency of control operations and improve the performance of computer systems by reducing the amount of time that services to resources are unavailable because of administrative functions." Column 2, lines 39-41 and 57-63 are quoted in support of this position.

However, there is a problem. Lines 57-63 of column 2 of Chintalapati et al. disclose:

It would be advantageous to provide a method, apparatus and program product that allow administration of a **daemon program without requiring that the daemon program be completely disabled** during the administration process. Such an invention improves the performance of computer systems by reducing the amount of time that services to resources are unavailable because of administrative functions. (Emphasis added)

Chintalapati et al. then states that:

The present invention **improves the administration of daemon programs** by providing a mechanism to perform administrative functions on the daemon programs without terminating the services provided by the daemon programs to the serviced resources. (Emphasis added)

It is therefore clear that the system to which the teachings of Chintalapati et al. are to be transferred would have to include a daemon program so that it could be improved with the teachings of Chintalapati et al. However, it has not been established that Freeman et al. has any such program to improve.

It is well established that in order to establish a *prima facie* case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be motivated to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered as statutorily required.

It is submitted that the rejection does not establish a reason for the hypothetical person of ordinary skill to consider introducing a daemon program into the system of Freeman et al. let alone an improved form of daemon program. Further, the system of Chintalapati et al. is about 2 years older than that of Freeman et al. and as such it must be expected that Freeman et al. would have been developed in light of the teachings of Chintalapati et al.

A further shortcoming resides in that claim 1 calls for a method for controlling the use of a resource by at least one process in a data processing system having an inter-process communication mechanism provided with storage facilities. It has not been established how the inter-process communication mechanism for which Chintalapati et al. is relied on, is "provided with" the storage facilities purported to be found in the Freeman et al. system.

Further, claim 1 calls for communicating between at least one process and the licence controller by storing at least one parameter in the storage facilities provided by the inter-process communication, and controlling the use of the resource by the process according to the parameter.

The rejection has not identified which parameter, if any, is stored in the storage facilities and how this parameter is used in connection with the control of the resources.

Conclusion

It is respectfully submitted that a *prima facie* case of obviousness has not been established for at least the above stated reasons. Favorable reconsideration and allowance of this application is courteously solicited.

Respectfully submitted,

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